

IOGLB
Clearwater, Nez Perce, Bitterroot National Forest
Bear/Cougar/Wolf Overlap Policy # 2023 - 2012

Approved by the Board 3-7-2012

Clarified 4-14-2012

PURPOSE

The intent and purpose of this document is to explain policies allowing outfitter overlap agreements for the next three years in those areas within the Clearwater Region identified by the Idaho Department of Fish and Game as units 10, 12, 16A, 17, 19, 20 and the northern part of 16.

BACK GROUND

In 2002, an imbalance of predator/prey populations causing excessive suppression of the prey species was identified by the Idaho Department of Fish and Game in parts of the Clearwater and Nez Perce National Forests. A secondary concern was the effect this biological situation has on the short and long term viability and sustainability of outfitter operations dependent on balanced predator/prey populations. These matters were brought to the attention of the IOGLB (the Board) and the USFS, and together with the USFS, a research project was initiated to increase predator harvest in parts of the Clearwater and Nez Perce National Forests identified by the Idaho Department of Fish and Game as areas of special concern. In 2003, a joint policy and procedures were put into place where Outfitters in the area were encouraged to voluntarily overlap all or part of their bear, cougar and wolf areas to increase overall harvest to assist in reducing bear and cougar populations. In 2010, the policy was updated and wolves were added.

In February 2012, IOGLB, USFS and IDFG representatives met and determined that it appeared this effort had helped maintain predator/prey population balances in this general area and the overlap opportunity should continue for an additional three (3) years. In order to better understand the effect of this research project, the group recommended several matters be clarified to address confusion that had surfaced recently regarding the intent of the policy and to simplify the process for everyone involved. These clarifications have been incorporated into this document.

At their March 2012 meeting, the Board adopted this group's recommendations. The Board also determined that mandatory overlaps and non-use action must be used to more effectively address the predator/prey imbalance in this area. The Board indicated they would be open to working to resolve areas of special concerns which were discussed by this group when those matters were initiated by the Idaho Department of Fish and Game and when done collaboratively with IOGLB's partnering agencies.

TIME FRAME

In the past, outfitters annually submitted Outfitter Overlap Agreement renewal requests, and following agency reviews, they were reauthorized by IOGLB. **A change going into effect with this updated policy which becomes effective immediately is that the overlap agreements will be for three years, ending June 30, 2015.** During this time, outfitters may terminate agreements and initiate new ones following the steps outlined below. However, all **new** agreements will terminate on June 30, 2015 when this overall project will be evaluated and possibly reauthorized.

Note: All overall agreements approved in March 2012 terminate effective June 30, 2012 as explained in the individual authorization letters.

CONSIDERATIONS FOR TEMPORARY OUTFITTER OVERLAP AGREEMENTS:

Temporary Overlap Agreements (TOA's) may be approved by the Board when developed between consenting licensed outfitters as follows:

- Outfitters licensed in IDFG units 10, 12, 16A, 17, 19, 20 or the northern part of 16 may enter into an agreement to allow another outfitter licensed by the State of Idaho to hunt spring bear, cougar and wolf in all or part of their licensed operating area in order to assist in increasing bear, cougar and wolf harvest within that area.
- The “existing” outfitter is the outfitter licensed by the IOGLB for a given area. The “overlapping” outfitter is the outfitter licensed by the State of Idaho who by agreement with the “existing” outfitter and who, upon authorization by the IOGLB provides services in the “existing” outfitter’s licensed area during a specified period determined by IOGLB.
- Only the overlapping outfitter may hunt spring bear or cougar or wolf during the overlap agreement period. The existing outfitter relinquishes their use of the area during the overlap period. The existing outfitters may not charge the overlapping outfitter or receive payment of any sort for the use of the area.

The existing outfitter may have one overlap agreement for bear, cougar and wolves or they may have an overlap agreement with one outfitter for spring bear and wolves during a specified season and another agreement with a different outfitter for cougar and wolves during a different specified season. The agreement(s) must be for a complete season, with only one outfitter allowed in an area at a time. Existing outfitters with multiple operating areas are asked to keep their overlap agreements simple, if they want to have them approved. The terms of each agreement must be clearly explained on separate OG-23 forms that were specifically created for this policy.

- Overlap agreements will not be authorized or allowed during seasons that coincide with other big game seasons.
- During the overlap period, all responsibilities outlined by the Outfitters and Guides Act and Rules normally pertaining to an existing outfitter will be borne by the overlapping outfitter for the overlapped area. These include but are not limited to: licensing, client reservations, client safety and liabilities, adhering to all State and Federal Rules and Regulations, bonding and insurance, and reporting use requirements and fees, taxes, etc.
- Outfitters found in violation of these requirements may face disciplinary action.

STEPS TO OBTAINING APPROVAL FOR A TEMPORARY OVERLAP AGREEMENT

Step	Required Action
#1	<p>Beginning this year (2012), the outfitters interested in an overlap must submit the following to the appropriate Land Management Agency “Land Manager” between April 1 and May 15:</p> <p>A properly completed <i>Clearwater, Nez Perce and Bitterroot National Forest Bear/Cougar/Wolf Overlap Policy – OG -23 - Outfitter Overlap Agreement & Land Manager’s Statement (Attached).</i></p> <p>The <i>OG-23 form</i> must include an applicable area description and map, if the proposed overlap area is less than the existing outfitter’s licensed area.</p> <p>And</p> <p>A properly completed Operating Plan - <i>OG-7.1 Land Supplemental form explaining the overlapping outfitters proposed operation during the overlap.</i> (attached)</p> <p>The overlap request must be submitted in one complete package. Applications not submitted as described above will not be accepted. The OG 7.1 and the OG-23 forms are available from IOGLB’s Website at http://oglb.idaho.gov.</p>

#2	<p>The Land Manager will review the <i>OG-23</i> and the <i>OG-7.1</i> forms and the accompanying documents and will approve or deny the proposed overlap by checking the appropriate section of the <i>OG-23</i>.</p> <p>By June 30, 2012 and for each year following, Land Manager will forward the final <i>OG-23</i> form and accompanying documents to the IOGLB and provide a completed copy of the final <i>OG-23</i> to both outfitters.</p> <p>IOGLB will <u>not</u> accept this information from the outfitters.</p>
#3	<p>Upon receipt of the final <i>OG-23</i> form from the Land Manager, IOGLB will notify the overlapping outfitter by July 15, annually using a Letter of Intended Action <i>OG- 22 Form</i>, that payment of a special processing fee of \$100 is required for the application to be complete.</p>
#4	<p>Upon receipt of the special processing fee, IOGLB will process the request. If the fee is not received within ten days of IOGLB's notification the application will be disqualified.</p>
#5	<p>The IOGLB will coordinate a partnering agency review meeting as needed. During this meeting, the partnering agencies will review proposed overlaps and the historical use of outfitters in the area in order to prepare a recommendation to the Board where operating adjustment need to be made as explained further on in this document.</p>
#6	<p>Beginning in 2012, IOGLB will respond to the outfitters by August 30 annually with a final decision using a Letter of Intended Action - <i>O.G. 22 Form</i> or a Letter of Authorization signed by the Board's Executive Director. Those outfitters where operating adjustments are needed will be notified separately.</p> <p>A copy of the IOGLB decision will be provided to the Land Manager.</p>

RENEWAL PROCEDURES

Because outfitter overlaps agreements are for three years and automatically sunset until June 30, 2015, there is no action or fee required of either outfitter to renew an overlap agreement. However, if the IOGLB does not receive the aforementioned use reports by June 30, the overlap agreement will automatically terminate. Both outfitters will be notified by IOGLB using the *Letter of Intended Action - OG- 22 Form*. They will be given an opportunity to reapply or to appear before the Board to explain why the agreement should be reinstated.

REPORTING USE

Annually, the overlapping outfitter will be required to submit specific use reports for those clients in the overlap area in order to maintain the authorization for the overlap. Properly completed use reports (*using the attached OG – 24 form*) must be received by the USFS and IOGLB by May 15 of each subsequent year after an overlap is authorized and until it terminates. This use must not be reported on or included with the overlapping outfitter's license use reports that are submitted with their annual license renewal.

The existing outfitters are encouraged to provide hunts for fall bear, and cougar or wolves during times that are outside of their overlap agreement. The existing outfitters are to continue to submit the standard use reports with their annual license renewal for only those clients they've provided services to themselves. Existing outfitters are not required to submit an *OG -24 form*; however, they are expected to obtain and maintain on file the information required on the *OG -24 form* should the IOGLB require them to verify their use.

The reports are necessary in order to have accurate harvest records, to avoid duplication and to respond when clarification is needed. Client information is kept confidential by the agencies.

NON USE OF BEAR, LION AND WOLF ACTIVITIES

By June 30, annually the Board will monitor progress and the use of these overlaps agreements in determining whether this effort is helping to meet the State of Idaho's initiative to increase predator harvest in this overall area. From this point forward, if an outfitter has not shown use in an area, and has not allowed an overlap in the area, those outfitters may be found to be in Unapproved Non Use status as identified in Board Rule 24 and be subject to a show cause hearing and possible disciplinary action up to and including loss of licensing privileges. Also, the Board may consider Board initiated overlaps as explained below.

It is important to recognize that while use accrued due to overlaps will no longer be credited to the existing outfitter, overlaps that are in place will be a significant consideration when IOGLB reviews non-use and determines where action is required.

TEMPORARY BOARD INITIATED OVERLAPS IN CASES OF IDENTIFIED UNACCEPTABLE/ LOW USE

At the discretion of the Board, it may be necessary in the future, to examine Unacceptable/ Low Use in areas identified by joint efforts of IOGLB and IDFG to be jeopardizing the well being and sustainability of the ungulate resource and the corresponding outfitting industry. The affected outfitter will be given the opportunity to discuss with the Board the validity of the harvest goals within their area and their extent of good faith effort relative to increasing their predator harvests.

1. Where an insufficient good faith effort to reach reasonable IDFG harvest goals is determined, the IOGLB may implement Temporary Board Initiated Overlaps in an attempt to reach these goals.
2. In determining Unacceptable/ Low Use, the Board will review the Target Harvest Number provided by the Department of Fish and Game and Annual Use Reports provided by the outfitter, as well as any other relevant information that the Board deems necessary to consider the specific circumstances involved regarding each outfitting area.
3. A Show Cause Hearing will be held for the Existing Outfitter prior to a determination of implementing a Board Initiated Overlap.
 - a. Options considered by the Board at the Show Cause Hearing will be:
 - i. A one-year grace period for the Outfitter to increase predator harvest.
 - ii. Implement a Board Initiated Overlap on a temporary basis in a portion or all of the operating area with all use credited to the Existing Outfitter.

If a Board Initiated Overlap is deemed necessary, the Board will solicit applications and temporarily license a qualified outfitter for bear and/or cougar in a licensed outfitters operating area. In this instance, all responsibilities outlined by the Outfitters and Guides Act and Rules normally pertaining to an Outfitter will be borne by the "overlapping" outfitter including federal permitting requirements. These include but are not limited to: licensing, client reservations, client safety and liabilities, adhering to all State/Federal Rules and Regulations, bonding and insurance, and reporting use requirements and fees, taxes, etc.

TERMINATION

At the termination of the temporary overlap, all activities will be restored to the existing outfitting business operating area.

SALE OF A BUSINESS

In the event of the sale of a business, any existing overlap(s) will be terminated. Some overlaps may be allowed to remain in effect until previously booked clients are accommodated.

The outfitter acquiring a licensed business and who is licensed, may then apply for an overlap agreement in the area of concern using procedures provided in the policy and if approved, would be subject to the time limits explained herein.

OVERSIGHT

The Idaho Outfitter and Guides Licensing Board (IOGLB) recognize a cooperative tri-agency effort to support the Idaho Department of Fish and Game (IDFG) Predator Management Plan in the Lolo and Selway Zones of the Clearwater Region.

Idaho Outfitters and Guides Licensing Board issues overlap agreements in accordance with Section 36-2110, 2(b), Idaho Code and Board Rule 26.

In summary 36-2110 states:

- (a) Possession of a valid license issued by the Board shall be a prerequisite to acting as an outfitter or guide.*
 - 1. No more than one (1) person may operate as an outfitter or guide under one (1) license.*
 - 2. The operating area as set forth on the outfitter's license including any attachment thereto shall be the limit of such operations for each licensee, subject to subsection (b) below.*
- (b) The Board may adjust the territorial scope of operations of any licensed outfitter, for reasons of game harvest, where territorial conflict exists between the big game operations of outfitters, or for the safety of persons utilizing the services of outfitters.*
- (c) The Board shall adopt rules to carry out the provisions of this section.*

NOTE: The IOGLB does not take implementation of Board Initiated Overlaps lightly. However, due to the serious biological imbalance of the predator/prey populations in this region and the efforts of the IDFG to utilize outfitters as one of the tools to reduce predator populations in order to restore a balance that will allow the prey species to recover to an acceptable level; it is imperative that the Board consider initiating and implementing overlaps for the benefit of the resource and overall protection of the outfitting industry.